

File

FEB 17 1998

Mr. Michael J. Dwyer
Director, Occupational Safety, Health
and Environmental Compliance
Dept. 464C, S111-1099
McDonnell Douglas Corporation
P.O. Box 516
St. Louis, MO 63166-0516

EPCRA Docket No. VII-98E-91

Dear Mr. Dwyer:

This letter is formal notification of the results of a review of information which you supplied in response to our inquiry regarding a June 25, 1997, release of nitric oxide. The purpose of our inquiry and this review was to determine the company's efforts to comply with the release reporting requirements of Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11004 et seq.

The review revealed that according to the information you supplied, because the amount of released material did not meet or exceed the reportable quantity, you were not subject to the notification requirements of CERCLA § 103 or EPCRA § 304.

I noted during my review that you indicated on Question 16 that the released material did not migrate off facility boundaries. Please be aware that if a listed hazardous substance or extremely hazardous substance meets or exceeds its RQ, that dissipation of a gas or vapor into the atmosphere is considered a release of the material off your facility boundaries for purposes of reporting to state and local authorities under EPCRA.

Although it appears that your response to contain and control the release was adequate to minimize human and environmental exposure to the release, I would like to take this opportunity to remind you that releases which are reportable under EPCRA require **immediate** notification of state and local officials upon discovery of the release. Also, that CERCLA requires that you **immediately** report releases to the National Response Center (NRC) if the release exceeds the reportable quantity and is not contained within a building or an enclosed structure.



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RCRA Records Center

This finding does not preclude EPA or the State of Missouri from assessing penalties or taking any other action authorized under CERCLA, EPCRA or state law, if additional information regarding this release authorizes such action. Section 109 of CERCLA authorizes a civil penalty of up to \$27,500 for each violation of Section 103 of CERCLA. Section 325 of EPCRA authorizes a civil penalty of up to \$27,500 for each day of violation of EPCRA Section 304.

Thank you for your cooperation in responding to our inquiry. If you have any questions concerning this letter or your responsibilities under CERCLA § 103 or EPCRA § 304, contact me at (913) 551-7744.

Sincerely,

Diana G. Jackson
Environmental Protection Specialist
Toxic Substances Prevention and Planning Branch

cc: Bob Dopp
MERC
Jim Long
MDNR
Art Groner
MDNR

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